279901

ADAMS AND REESE LLP

November 2, 2018

Attorneys at Law
Alabama
Florida
Louisiana
Mississippi
South Carolina
Tennessee
Texas
Washington, DC

John J. Pringle, Jr.
Direct: 803.343.1270
E-Fax: 803.343.1238
jack.pringle@arlaw.com

VIA HAND-DELIVERY:
The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

Re: *Daufuskie Island Utility Company, Inc. v. South Carolina Office of Regulatory Staff, Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc., Bloody Point Property Owner's Association, and Beach Field Properties, LLC*
Appellate Case No. 2018-001107
A&R File No. 051030-000001

Dear Mr. Shearouse:

Enclosed are the originals and one copy each of Respondents' Initial Brief and Designation of Matter to Be Included in the Record on Appeal. Please file the originals and return the clocked copies to my courier delivering same.

By copy of this letter, I am serving all counsel with the brief and designation as set forth in the enclosed Proof of Service. Thank you for your attention to this matter.

Sincerely,

John J. Pringle, Jr.

JJP:vmc

cc: Hon. Jocelyn Boyd
G. Trenholm Walker, Esquire
Thomas P. Gressette, Jr., Esquire
Andrew M. Bateman, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM THE PUBLIC SERVICE COMMISSION

Appellate Case No.: 2018-001107

Daufuskie Island Utility Company, Inc., ...Appellant,

v.

South Carolina Office of Regulatory Staff,
Haig Point Club and Community Association, Inc.,
Melrose Property Owner's Association, Inc.,
Bloody Point Property Owner's Association, and
Beach Field Properties, LLC,..... Respondents.

RESPONDENTS' HAIG POINT CLUB AND COMMUNITY ASSOCIATION, INC., MELROSE PROPERTY OWNER'S ASSOCIATION, INC. AND BLOODY POINT PROPERTY OWNER'S ASSOCIATION'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

Respondents Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc. and Bloody Point Property Owner's Association propose that the following be included in the Record on Appeal:

1. Order No. 2012-515 issued in Docket No. 2011-229-WS on July 10, 2012
2. Order No. 2015-846 issued December 8, 2015
3. Order No. 2016-50 issued February 25, 2016
4. Order No. 2016-156 issued March 1, 2016
5. Order No. 2017-402(A) issued June 30, 2017
6. Transcript of Testimony and Proceedings in Docket No. 2014-346-WS,with all Hearing Exhibits, including Prefiled Testimony and Exhibits thereto, and Transcript of previously conducted hearing , December 6-7, 2017
7. Order No. 2018-68 issued January 31, 2018
8. Order No. 2018-346 issued May 16, 2018

I certify that this designation contains no matter which is irrelevant to this appeal.

John J. Pringle, Jr.
Lyndey R. Z. Bryant
Adams and Reese LLP
1501 Main Street, 5th Floor
Post Office Box 2285 (29201)
Columbia, South Carolina 29202
(803) 254-4190
Attorneys for Respondents Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc. and Bloody Point Property Owner's Association

November 2, 2018.

THE STATE OF SOUTH CAROLINA
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INITIAL BRIEF OF RESPONDENTS HAIG POINT CLUB AND COMMUNITY ASSOCIATION, INC., MELROSE PROPERTY OWNER'S ASSOCIATION, INC., AND BLOODY POINT PROPERTY OWNER'S ASSOCIATION

John J. Pringle, Jr.
Lyndey R. Z. Bryant
Adams and Reese LLP
1501 Main Street, Fifth Floor
Columbia, South Carolina 29201
(803) 254-4190

Attorneys for Respondents Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc. and Bloody Point Property Owner's Association

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RESTATEMENT OF ISSUES ON APPEAL

1. Were the Commission's Orders on Rehearing inconsistent with *Utilities* or *Porter* or otherwise affected by an error of law?
2. Were the Commission's Orders on Rehearing supported by substantial evidence?

STATEMENT OF THE CASE

This appeal involves two Orders issued by the Public Service Commission of South Carolina ("Commission"): January 31, 2018 (Order No. 2018-68) and May 16, 2018 (Order No. 2018-346) (together "the Commission's Orders on Rehearing"). The South Carolina Office of Regulatory Staff ("ORS") and Intervenors Haig Point Club and Community Association, Inc. ("HPCCA"), Melrose Property Owner's Association, Inc. ("MPOA"), and Bloody Point Property Owner's Association ("BPPOA") support the Commission's Orders.

The case arises out of Daufuskie Island Utility Company, Incorporated's ("DIUC") Application dated June 9, 2015, which sought approval of a new schedule of rates and charges for water and sewer service provided to DIUC's customers within its authorized service area ("Proposed Rates"). Petitions to Intervene were filed on behalf of HPCCA, MPOA, and BPPOA ("the POAs") on July 23, 2015, and on behalf of Beach Field Properties, LLC ("Beach Field") on July 27, 2015. ORS was a party of record in the case pursuant to S.C. Code Ann. § 58-4-10(B) (2015).

On October 27, 2015, the POAs and ORS submitted a Settlement Agreement ("Settlement Agreement") to the Commission and served it on all parties. Upon presentation of the Settlement Agreement, DIUC objected and asserted it was error for the Commission to accept the Settlement Agreement into evidence.

On October 28, 2015, the Commission held a hearing on DIUC's Application. Following the submission of Proposed Orders by several of the parties, on December 8, 2015, the Commission issued Order No. 2015-846 ruling on DIUC's Application.

On December 21, 2015, DIUC filed a Petition for Reconsideration and/or Rehearing ("Petition") of Commission Order No. 2015-846.

On January 20, 2016, DIUC filed a Petition for Bond Approval in which it notified the Commission that, pursuant to S.C. Code Ann. § 58-5-240(D), DIUC intended to put its Proposed Rates into effect under bond during the pendency of an appeal.

On February 25, 2016, the Commission denied the Petition (Order No. 2016-50). On March 1, 2016, the Commission issued Order No. 2016-156 approving the proposed surety and bond in the amount of $787,867, effective July 1, 2016, for a period of one year.[1]

DIUC filed and served a Notice of Appeal of the Commission Orders 2015-846 and 2016-50 (the "Orders") on March 22, 2016.

Pursuant to S.C. Code § 58-5-240(D), the Company began collecting its Proposed Rates under bond on July 1, 2016.

This Court subsequently reversed the Orders, and remanded the case to the Commission. *Daufuskie Island Utility Company v. S.C. Office of Regulatory Staff*, 420 S.C. 305, 803 S.E.2d 280 (2017). (the "Supreme Court Opinion").

On December 6, 2017 the Commission conducted a Rehearing of DIUC's Application. The Rehearing continued on December 7, 2017.

[1] The Commission issued Order No. 2017-402(A) on June 30, 2017 extending DIUC's surety bond for an additional six months.

On January 31, 2018, the Commission issued Order No. 2018-68. On February 20, 2018, DIUC filed a Petition for Reconsideration and/or Rehearing of Order No. 2018-68. On May 16, 2018, the Commission issued Order No. 2018-346 denying DIUC's Petition for Reconsideration and/or Rehearing.

On June 13, 2018, DIUC filed and served its Notice of Appeal seeking review of Order No. 2018-68 and Order No. 2018-346 (the "Orders on Rehearing").

STATEMENT OF FACTS

In its Application, DIUC requested approval of a new schedule of rates and charges for water and sewer service ("Proposed Rates"), and seeking additional annual revenues for combined operations of $1,182,301, consisting of water revenue increases of $590,454 and sewer revenue increases of $591,847. (Commission Order 2015-846 p. 1).

Commission Order 2015-846 approved rates ("Initially Approved Rates") allowing DIUC to earn additional annual revenue of $462,798.

DIUC put its Proposed Rates into effect, pursuant to S.C. Code Ann. Section 58-5-240(D), effective July 1, 2016.

The Orders on Rehearing approved rates ("Subsequently Approved Rates") allowing DIUC to earn additional annual revenue of $950,166. (Order 2018-68 p. 43). Per S.C. Code Ann. Section 58-5-240(D), Order No. 2018-68 required DIUC to refund to its customers the difference between the revenue collected by DIUC under the Proposed Rates and the additional revenue approved by the Commission resulting in the Subsequently Approved Rates. (Order No. 2018-68, p. 44). As a result, DIUC has collected the Subsequently Approved Rates from its customers effective June 1, 2016 and since that date.

The Orders on Rehearing granted DIUC the following (Order No. 2018-68, Table D):

Table D

Total Operating Revenue	$2,023,743
Total Operating Expenses	1,586,921
Total Operating Income (loss)	436,822
Customer Growth	1,529
Net Income (loss)	$438,351

Note: Interest Expense for Operating Margin purposes is $142,973.

In particular, the Orders on Rehearing 1) increased gross plant in service for DIUC by $925,335, including $863,379 for the elevated water storage tank and $61,956 for a well located on the elevated tank site that had been previously excluded by the Commission (Order 2018-68 p. 21, Order No. 2018-346 p. 5); 2) accepted DIUC's proposed property tax expenses (Order No. 2018-68 p. 30); and 3) granted DIUC bad debt expense of $198,690, some $160,000 more than the bad debt expense of $30,852 proposed by DIUC in its original Application. (Order No. 2018-68, pp. 39-41).

STANDARD OF REVIEW

A. Factual findings by the Commission are presumptively correct and should be affirmed if there is substantial evidence to support them.

"[J]udicial review of administrative agency orders is limited to a determination whether the order is supported by substantial evidence." *MRI at Belfair, LLC v. Dep't. of Health & Envtl. Control*, 379 S.C. 1, 6, 664 S.E.2d 471, 474 (2008). If there is

substantial evidence to support a decision by the Commission, the Court will affirm the decision. *Hamm v. South Carolina Pub. Serv. Comm'n*, 309 S.C. 282, 422 S.E.2d 110 (1992). Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Porter v. South Carolina Public Service Commission*, 333 S.C. 12, 23, 507 S.E.2d 318, 324 (1998) ("*Porter*"). Substantial evidence is "something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence. *Lark v. Bi-Lo, Inc.*, 276 S.C. 130, 135, 276 S.E.2d 304, 307 (1981). Under the substantial evidence standard, a finding upon which reasonable people may differ will not be set aside. *Id.*, 276 S.C. 130 at 137, 276 S.E.2d 304 at 307.

This Court has held it "may not substitute its judgment for the Commission's on questions about which there is room for a difference of intelligent opinion." *Duke Power Co. v. Public Serv. Comm'n*, 343 S.C. 554, 558, 541 S.E.2d 250, 252 (2001). "Because the Commission's findings are presumptively correct, the party challenging a Commission order bears the burden of convincingly proving the decision is clearly erroneous, or arbitrary or capricious, or an abuse of discretion, in view of the substantial evidence on the whole record." *Id.* (citing S.C. Code Ann. § 1-23-380(A)(6)).

B. The Commission is considered an expert in utility rate making.

As this Court has recognized, "rate making is not an exact science, but a legislative function involving many questions of judgment and discretion." *Parker v. Public Serv. Comm'n*, 280 S.C. 310, 312, 313 S.E.2d 290, 291 (1984). "The PSC is considered the 'expert' designated by the legislature to make policy determinations

regarding utility rates; thus, the role of a court reviewing such decisions is very limited." *Kiawah Property Owners Group v. Public Serv. Comm'n*, 359 S.C. 105, 109, 597 S.E.2d 145, 147 (2004); *Patton v. Public Serv. Comm'n*, 280 S.C. 288, 312 S.E.2d 257 (1984).

Further, the weight and credibility assigned to evidence presented is a matter peculiarly within the province of the Commission. *South Carolina Cable TV v. Southern Bell and the Public Service Commission*, 308 S.C. 216, 417 S. E. 2d 586 (1992). The Commission has the duty to "believe or disbelieve evidence submitted," and "sits like a jury of experts." *Hilton Head Plantation Utilities, Inc. v. Public Serv. Comm'n*, 312 S.C. 448, 451, 441 S.E.2d 321, 323 (1994).

ARGUMENTS

DIUC's Application sought a revenue increase for combined operations of $1,182,301, a 108.9% increase, and accordingly sought to implement Proposed Rates that would recover those additional revenues. DIUC put its Proposed Rates in effect and collected those rates from June 1, 2016 until January 1, 2018. In the Orders on Rehearing, the Commission granted DIUC rates ("Subsequently Approved Rates") resulting in an annual revenue increase of $950,166 effective June 1, 2016.

Despite receiving almost $1 million in additional annual revenue, and Subsequently Approved Rates that will allow it to earn Net Income of $438,351 annually, DIUC has appealed the Commission's Orders on Rehearing and raised two[2] discrete issues: 1) the Commission erred in excluding $699,361 from rate base; and 2) the Commission erred in awarding DIUC $272,382 in rate case expenses, rather than the

[2] DIUC has abandoned any challenge to the Commission's determination of depreciation expense. *See Biales v Young*, 315 S.C. 166, 168, 432 S.E.2d 482, 484 (1993) (a party's failure to argue an issue constitutes abandonment of the issue and precludes consideration on appeal).

$794,210 in rate case expenses sought by DIUC on rehearing. The Orders on Rehearing are supported by substantial evidence and are not affected by any error of law.

I. THE ORDERS ON REHEARING DID NOT "REWRITE THE STANDARD" OF *UTILITIES*, WERE CONSISTENT WITH *PORTER*, AND ARE NOT OTHERWISE AFFECTED BY AN ERROR OF LAW

DIUC argues (Initial Brief p. 17) that the Commission, "contrary to precedent" established in *Utilities Services of S.C. v. S.C. Office of Regulatory Staff*, 392 S.C. 96, 708 S.E.2d 755 (2011) ("*Utilities*"), failed to accord DIUC the "presumption that its expenditures were reasonable and incurred in good faith" and place the "burden of production" on ORS to "demonstrate a tenable basis for raising the specter of imprudence" regarding those expenses, in ruling (Order 2018-68, p. 39):

> It is the responsibility of the regulated utility – not the Commission, ORS, or any other party – to support the operating expenses that contribute to the utility's revenue requirements. We cannot presume that the expenses a utility proposes to recover in its rates and charges are legitimate if they cannot be subjected to the scrutiny of an audit or examination. *Porter v. SCPSC*, 333 S.C. 12, 507 S.E. 2d 328 (1998).

Order No. 2018-68 is completely consistent with both *Utilities* and *Porter*. DIUC's argument leaves out the salient analysis and conclusions of these two cases—that DIUC has the burden of establishing that the values (of assets and expenses placed on its books) are "known and measurable" in the first instance (*Porter*), and then demonstrating those values are reasonable when challenged by the ORS, another party, or the Commission (*Utilities*).

This Court's decision in *Porter* underscores the Commission's role in evaluating those values that a utility seeks to use to form the basis of rates, and makes clear DIUC enjoys no presumption at all just by virtue of putting values on its books:

> *Southern Bell, supra, does not require PSC to consider unaudited or speculative data.* It merely requires PSC to consider *known and measurable* changes that occur after the test year in order to accurately calculate figures that affect the company's overall rate of return and customer rates. PSC complied with *Southern Bell* by considering the audited data from March to May 1995.

Porter, 333 S.C. 28, 507 S.E.2d 336 (emphasis added).

In other words, *Porter* makes clear that DIUC's claimed asset values and expenses cannot be "presumed to be reasonable and incurred in good faith" (under *Utilities*) when they have not been audited or otherwise supported or verified. Commission Order 2018-346 set out a number of methods by which DIUC could "provide proper documentation" of its proposed plant values, including "duplicate invoices from vendors, presenting cancelled checks as proof of payment, obtaining copies of cancelled checks from banking institutions when necessary, supplying copies of paid contracts, and/or obtaining independent third party estimates for questioned items." (Order 2018-346 at p. 6).

As demonstrated below, DIUC failed to verify (through invoices, estimates, or other reasonable method) certain plant values, and therefore those values are not even "known and measurable," much less presumed reasonable.

Likewise, expenses (such as the rate case expenses proposed by DIUC), do not enjoy the presumption of validity or reasonableness when the ORS challenges them or seeks to verify them:

> Although the burden of proof of the reasonableness of all costs incurred which enter into a rate increase request rests with the utility, the utility's expenses are presumed to be reasonable and incurred in good faith. This presumption does not shift the burden of persuasion but shifts the burden of production on to the Commission or other contesting party to demonstrate a tenable basis for raising the specter of imprudence. This evidence may be provided ... through the Commission's broad investigatory powers. The ultimate burden of showing every reasonable effort to minimize ... costs remains on the utility.

Utilities, 392 S.C. at 109, 708 S.E.2d at 762-63 (quoting *Hamm*, 309 S.C. 282, 286-87, 422 S.E.2d 110, 112-13 (1992)).

II. SUBSTANTIAL EVIDENCE IN THE RECORD SUPPORTS THE COMMISSION'S ORDERS ON REHEARING

A. The Commission's Decision to Exclude Certain Gross Plant in Service is Supported by Substantial Evidence

DIUC maintains that substantial evidence does not support the Commission's "exclusion of $699,361(out of a total of $8,139,260) in gross plant from rate base is erroneous and repeats the same error that resulted in appeal of Order 2015-846." (Order No. 2018-346, p. 2). As explained by Commission Order 2018-346 (pp. 2-7), Order No. 2018-68 unquestionably added the value of the elevated water storage tank ($863,370) and a well located on the "elevated tank site" ($61,956) back into gross plant, thus addressing the issue cited in the Supreme Court Opinion and ensuring that no such putative "error" could be "repeated." The excluded gross plant is simply what remained after the "elevated tank site" assets were included- and DIUC has never supported inclusion of those assets in its rate base.

The Orders on Rehearing contain ample and substantial evidence supporting the Commission's decision to exclude those assets from rate base. DIUC never justified these proposed plant asset values by either 1) establishing those values through invoices or other evidence of payment; or 2) estimating the values for those assets. DIUC's argument about NARUC rules and "estimating costs and using estimation studies" (Brief pp. 40-42) is a red herring, simply because DIUC itself admits that it did not estimate any of the costs at issue: "In this case, however, it is not necessary to estimate the costs because the costs are known and recorded, and the assets are used and useful in providing

service to our customers." (Hearing Tr., p. 204, Initial Brief at p. 40). Likewise, and explained below, the costs are not "known" at all just because DIUC recorded them on its books.

DIUC claims that the ORS did not identify those plant assets that the Commission, in accepting ORS's evidence on this point, excluded from rate base (Appellant's Initial Brief pp. 33-37). This assertion is disingenuous, particularly because immediately thereafter DIUC proceeds to argue that it provided "proof of the cost" of those very plant assets (Brief pp. 38-42). In any event, DIUC witness Guastella's testimony in the Merits Hearing (Hearing Tr. pp. 202-203) shows that DIUC knew what assets ORS excluded: 1) ORS held an exit conference with DIUC; 2) ORS provided DIUC with work papers following the exit conference; and 3) that as a result of its exit conference with ORS and the work papers ORS provided, DIUC knows *exactly* what "undocumented expenses from gross plant in service" were removed by ORS:

> Upon review of ORS's testimony and exhibits from the last rate case, I noted the same statement appears; however, in that case ORS did provide amounts by type of plant within its testimony. In the instant case, ***ORS provided DIUC with work papers as a follow up to our audit exit conference call that enable us to identify what we think are the specifics of its adjustments***. The largest adjustment relates to the storage tank and facilities that I discussed above. ***The other adjustments shown in the work papers are for items of plant that are specifically identified by plant account and year of installation.*** Apparently, a lack of invoices is the sole basis for ORS's position that those costs are "undocumented." [emphasis added].

Among other things, Mr. Guastella's testimony also demonstrates that ORS identified those plant assets first in "the last rate case" (Docket No. 2011-329-WS), and removed them from rate base in that Docket. In other words, DIUC did not verify those assets in Docket No. 2011-329-WS, and did not justify their inclusion in rate base at that time.

As also outlined in Order No. 2018-346 (pp. 4-5), ORS witness Gearhart testified about the specific process ORS followed to review the assets in the rate base proposed by DIUC and make appropriate adjustments. Notably, the process followed by ORS is exactly that required by this Court in *Utilities*:

1) to the extent that the items on DIUC's books submitted in support of its application were entitled to a "presumption of reasonableness," that presumption is not "dispositive." *Utilities*, 392 S.C. 109, 708 S.E.2d 762. As described above, if assets are not verified or documented, then they are not "known and measurable," and certainly not entitled to a presumption that they are reasonable;

2) when ORS sought support for the "transactions in the books and records" of DIUC, and particularly invoices to support the proposed value of the items of plant in question, then any "presumption of reasonableness" DIUC may have enjoyed was removed, and the company was required to substantiate its claimed amounts. *Id.*;

3) as set out below, DIUC simply failed to do so, not just in both the original and rehearing stages of this Docket, but in the previous rate case Docket.

DIUC argues that simply by placing "itemized costs at specific amounts, by primary plant account, with description of original costs as booked, year of installation and in-service dates" on its books (Brief at p. 39, citing Hearing Tr. pp. 150-153), DIUC has established "documentation" sufficient to justify their inclusion in rate base. DIUC has improperly conflated its idea of "documentation" (putting items on its books) with the proper use of the term "documentation" (being able to verify an asset value via independent support). DIUC's assertion flies in the face of South Carolina law applicable to rate-making, which requires that those amounts supporting proposed rates be supported

or verified in order that they are "known and measurable" and not "speculative." *Porter,* 333 S.C. 28, 507 S.E.2d 336.. Accordingly, while 10 Code Ann. Regs. 103-702.16 may include those facilities within the definition of "Water Plant," that regulation does not speak to or establish the *value* of those assets.

Similarly, *Utilities* makes clear that DIUC's proposed asset values and expenses must be supported and verified. When the reasonableness of assets are challenged by ORS, any party, or the Commission, "the burden remains on the utility [DIUC] to demonstrate the reasonableness of its costs [and assets]." *Utilities,* 392 S.C. 109, 708 S.E.2d 762. In two separate Commission Dockets, DIUC put these assets on its books, the ORS asked for invoices to verify the amounts that were spent to obtain them (supporting documentation), and DIUC could not provide the necessary invoices.[3]

Aware that it lacked invoices that could support or verify its "documentation" of the utility plant costs at issue, DIUC then cites the NARUC Uniform System of Accounts (USoA) and its requirement of an "estimate of plant values when there is no supporting documentation available." (Hearing Tr. p. 204). But DIUC does not claim that it performed any such "estimate of plant values" or "original cost studies" to support those asset values excluded by the ORS: "In this case, however, it is not necessary to estimate the costs because the costs are known and recorded, and the assets are used and useful in providing service to our customers." (Hearing Tr. p. 204). As demonstrated above, those costs are not "known" at all, because they were not verified via invoice. And DIUC did not perform any "estimate" of those plant values to support their inclusion in rate base.

In sum, substantial evidence supported the determination of the Commission in

[3] Accordingly, ORS adjusted a "Land and Land Rights" "Plant Balance" as part of Rehearing Audit Exhibit DFS-5 (Rehearing Exhibit 8), and the Orders on Rehearing adjusted same appropriately based upon the same rationale as explained herein.

the Orders on Rehearing to exclude those assets from rate base.

B. The Commission's Decision Excluding $542,978 in Rate Case Expenses is Supported by Substantial Evidence

In the rehearing phase of this Docket, DIUC "requested $794,210 for current and unamortized rate case expenses recovered over 3 years." (Order No. 2018-68 p. 36, citing to Rehearing Tr. p. 473, ll. 15-17). The ORS recommended a rate case expense total of $272,382 to be amortized over five years, adjusting the $794,210 amount sought by DIUC to remove $542,978 in invoices submitted by Guastella and Associates (GA). (Order No. 2018-68 at pp. 36-37). To be clear, Order No. 2018-68 adopted the shorter amortization of rate case expenses proposed by DIUC (3 years as opposed to the 5 years proposed by ORS), but agreed with ORS that those particular invoices must be excluded (Order No. 2018-68 at p. 39).

There is ample evidence in the Orders on Rehearing and in the Record of this case to support the Commission's ruling excluding $542,978 in GA invoices. DIUC's arguments ignore the fact that DIUC bears the burden of proof to justify those expenses that contribute to its revenue requirements (Order No. 2018-68 at p. 39). Moreover, DIUC's claim that it was not afforded an opportunity to "rebut" the ORS recommendation to exclude the GA invoices (Brief at p. 32) is wrong. The record shows that DIUC had more than a "meaningful opportunity" to rebut the ORS recommendation. As set out in Order No. 2108-68 (Page 37), ORS witness Hipp testified in her *Direct* Testimony (filed November 16, 2017) that "GA invoices contained mathematical errors, lacked sufficient detail, and/or did not appear to be paid. (Rehearing Tr. p. 476, ll. 11-18)." DIUC witness Guastella addressed the issue in his Rebuttal Testimony (Order No. 2018-68, p. 38), Ms. Hipp testified further in her Surrebuttal Testimony (Order No. 2018-

68 pp. 37-38) about the inadequacies of the invoices, and the parties discussed same at length at the Rehearing. As such, DIUC's citation to *Utilities* is unavailing, as the facts in this case are not similar to those that existed in *Utilities.*

CONCLUSION

Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc., and Bloody Point Property Owner's Association respectfully request the Court affirm Commission Orders 2018-68 and 2018-346 because both are supported by substantial evidence and neither is governed by any error of law.

The POAs respectfully request this Court affirm the Commission's Orders, pursuant to SCACR 220(c), based upon any ground or grounds appearing in the Record on Appeal.

Respectfully submitted,

John J. Pringle, Jr.
Lyndey R. Z. Bryant
Adams and Reese LLP
1501 Main Street, Fifth Floor
Columbia, South Carolina 29201
(803) 254-4190

Attorneys for Respondents Haig Point Club and Community Association, Inc., Melrose Property Owner's Association, Inc. and Bloody Point Property Owner's Association

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PROOF OF SERVICE

I certify that I have served Respondents' Initial Brief and Designation of Matter to be Included in the Record on Appeal by depositing a copy in the United States Mail, postage prepaid, on November 2, 2018, addressed to the following:

Andrew M. Bateman, Esquire
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
Attorneys for Respondent Office of Regulatory Staff

Thomas P. Gressette, Jr., Esquire
G. Trenholm Walker, Esquire
Pratt-Thomas Walker, P.A.
Post Office Drawer 22247
Charleston, SC 29413
Attorneys for Appellant Daufuskie Island Utility Company, Inc.

Victoria M. Cordoni – Paralegal

November 2, 2018.